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AMCCC

INFORMATION PAPER

26 July 2002

SUBJECT: Political Activities by Federal Employees

PURPOSE: To provide information on the rules governing political activities by Federal officials

BACKGROUND:

- It is DOD policy to encourage DOD employees and members of the Armed Forces to carry out their obligations of citizenship to the maximum extent possible.
- There are some limitations on political participation, which vary depending on the individual's employment status. For AMC personnel there are three categories of personnel: SES members, other civilian employees, and military officials.
  - The rules governing civilian employee participation in the political process for both SES and other employees, are set out in the Hatch Act. 5 USC 7321, et seq.
  - The rules governing military personnel are set out in AR 600-20.
- "Political activity" means an activity directed toward the success or failure of a political party, political candidate, or partisan political group. It does not include participation in matters that are not partisan such as referenda on issues or non-partisan elections. One, however, must be very careful because if any candidate in an election runs under a party label, the election is considered partisan.
- The Office of Special Counsel (OSC) is the Federal government agency responsible for Hatch Act enforcement. Ethics counselors will assist employees who have questions about political activities; however, their views are only advisory. Employees who are interested in running for public office or who want to participate actively in the political process should contact OSC directly for advice and counsel. Employees who willfully violate the Hatch Act may be removed for such activity.
- Military personnel who are considering participation in the political process should contact their servicing legal office for advice and counsel.
- There are some special rules that allow greater participation in the political process for Federal employees who reside in Maryland and Virginia counties in the National Capital Region and counties in other geographic areas designated by OSC that have large concentrations of Federal employees.

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- Office of Command Counsel has issued an Ethics Advisory on subject that goes over the do's and don'ts on participating in political activities. This Advisory, which has been disseminated to AMC ethics counselors is enclosed

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## **Ethics Advisory 02-03, Political Activities**

Even though the year 2002 elections are 5 months away, we are already seeing campaign activity, not only in some Congressional races, but also at the state and local level. A Federal statute, the Hatch Act, governs civilian employees' participation in the political process. While it is DoD policy to encourage DoD employees and members of the Armed Forces to carry out the obligations of citizenship to the maximum extent possible, there are some limitations, which vary depending on the individual's employment status. The limitations for members of the Senior Executive Service, other Federal employees, and members of the Armed Forces are different. This Ethics Advisory summarizes permissible and prohibited activities and should be regarded as a general guide. The Office of Special Counsel is charged with enforcing the Hatch Act. Civilian employees should contact it with specific questions. It has a Hatch Act Hotline, 1-(800) 854-2824. Military personnel should contact me at (703) 617-8003.

### **PERMISSIBLE ACTIVITIES**

DoD civilian employees **(except career members of the Senior Executive Service may not engage in activities 10, 11, 12 and 13)**, in their personal capacities **may**:

1. Be candidates for public office in nonpartisan elections;
2. Register and vote as they choose;
3. Assist in voter registration drives;
4. Express opinions about candidates and issues;
5. Contribute money to political organizations;
6. Attend political fundraising functions;
7. Join and be an active member of a political party or club;
8. Sign nominating petitions;
9. Campaign for or against referendum questions, constitutional amendments, or municipal ordinances;
10. Campaign for or against candidates in partisan elections;

11. Make campaign speeches for candidates in partisan elections;
12. Distribute campaign literature in partisan elections; and
13. Hold office in political clubs or parties.

### **PROHIBITED ACTIVITIES**

Civilian DoD employees (including career members of the Senior Executive Service) **may not**:

1. Use official authority or influence for the purpose of interfering with or affecting the result of an election;
2. Collect political contributions unless both the collector and the donor are members of the same Federal labor organization or employee organization and the donor is not a subordinate;
3. Knowingly solicit or discourage the political activity of any person who has business with DoD;
4. Engage in political activity while on duty;
5. Engage in political activity while in any Federal workplace;
6. Engage in political activity while wearing an official uniform or displaying official insignia identifying the office or position of the DoD employee;
7. Engage in political activity while using a Government owned or leased vehicle;
8. Solicit political contributions from the general public;
9. Be a candidate for public office in partisan elections;
10. Wear political buttons on duty; and
11. Contribute to the political campaign of another Federal Government employee who is in the DoD employee's chain of command or supervision or who is the employing authority.

**SPECIAL RULES FOR EMPLOYEES WHO RESIDE IN VIRGINIA AND MARYLAND**

There are special rules for employees residing in Maryland and Virginia municipalities or political subdivisions in the immediate vicinity of the District of Columbia who want to run for local political office. The list of designated municipalities and political subdivisions is quite long; therefore, if you want to engage in one of the following activities it is important that before you get started, you first discuss your intentions with the Office of Special Counsel. Employees residing in those locales **may**:

1. Run as an independent candidate for election to partisan political office in elections for local office in the municipality or political subdivision;
2. Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;
3. Accept or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;
4. Solicit, accept, or receive uncompensated voluntary services as an independent candidate, or on behalf of an independent candidate, for local partisan political office, in connection with the local elections of the municipality or political subdivision; and
5. Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party.

Because the Hatch Act has its own definitions--e.g., a "partisan political office" means any office for which any candidate is nominated or elected as representing a political party--I urge you to discuss any questions you might have with the Office of Special Counsel. The AMC Office of Command Counsel will give you our opinion (703) 617-8003, but because Office of Special Counsel has Hatch Act enforcement authority, only its opinion is binding on the United States Government.

For active duty military personnel the rules are more restrictive. They are set out in AR 600-20.

### **PERMITTED ACTIVITIES**

A soldier on active duty **may**:

1. Register, vote, and express a personal opinion on political candidates and issues as a private citizen, but not as a representative of the Armed Forces;
2. Promote and encourage other soldiers to exercise their voting franchise so long as it does not constitute an attempt to influence or interfere with the outcome of an election;
3. Join a political club and attend its meetings when not in uniform;
4. Serve as an election official if such service is not as a representative of a partisan political party, does not interfere with military duties, is performed while out of uniform, and has the approval of the installation commander;
5. Sign a petition for specific legislative action or a petition to place a candidate's name on an official election ballot so long as the signing does not obligate the soldier to engage in partisan political activity and is done as a private citizen and not as a representative of the Armed Forces;
6. Write a letter to the editor of a newspaper expressing the soldier's personal views on public issues or political candidates, if such action is not part of an organized letter-writing campaign or concerted solicitation of votes for or against a political party or partisan political cause or candidate;
7. Make monetary contributions to a political organization, party or committee favoring a particular candidate or slate of candidates subject to statutory dollar limitations; and
8. Display a political sticker on the soldier's private vehicle.

### **PROHIBITED ACTIVITIES**

A soldier on active duty **will not**:

1. Use official authority or influence to interfere with an election, affect the course or outcome of an election, solicit votes for a particular candidate or issue, or require or solicit political contributions from others;
2. Be a candidate for civil office in Federal, state, or local government except in circumstances permitted by AR 600-20, or engage in public or

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organized soliciting of others to become partisan candidates for nomination or election to civil office;

3. Participate in partisan political management or campaigns or make public speeches in the course thereof;

4. Make a campaign contribution to another member of the Armed Forces or to a civilian officer or employee of the United States for promoting a political objective or cause;

5. Solicit or receive a campaign contribution from another member of the Armed Forces or from a civilian officer or employee of the United States for promoting a political objective or cause;

6. Allow or cause to be published partisan political articles signed or written by the soldier that solicit votes for or against a partisan political party or candidate;

7. Serve in any official capacity or be listed as a sponsor of a partisan political club;

8. Speak before a partisan political gathering of any kind for promoting a partisan political party or candidate;

9. Participate in any radio, television or other program or group discussion as an advocate of a partisan political party or candidate;

10. Conduct a political opinion survey under the auspices of a partisan political group or distribute partisan political literature;

11. Use contemptuous words against certain officeholders such as the President, Vice President, Congress, Secretary of the Defense or the Army, state governors, and state legislatures.

12. Perform clerical or other duties for a partisan political committee during a campaign or on an election day;

13. Solicit or otherwise engage in fund raising activities in Federal offices or facilities including military reservations, for a partisan political cause or candidate;

14. March or ride in a partisan political parade;

15. Display a large political sign, banner, or poster (as distinguished from a bumper sticker) on the top or side of a private vehicle;

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16. Participate in any organized effort to provide voters with transportation to the polls if the effort is organized by or associated with a partisan political party or candidate;

17. Sell tickets for, or otherwise actively promote political dinners and similar fundraising events; and

18. Attend partisan political events as an official representative of the Armed Forces.

For activities not expressly prohibited that may be contrary to the spirit and intent of the Department of Defense's policy for political activities for members of the Armed Forces, rules of reason and common sense apply. Any activity that could be viewed as associating the Department of the Army directly or indirectly with a partisan political cause or candidate will be avoided.

The policy does not preclude participation in local nonpartisan political campaigns, initiatives, or referendums so long as the soldier does not wear a uniform or use Government property or facilities, allow participation to interfere with or prejudice the soldier's performance of military duties, or engage in conduct that may imply that the Department of the Army has taken an official position or is otherwise involved in the local political campaign or issue.

For civilian and military personnel, the rules on political activity are a lot to digest at one time. I encourage you to read them carefully and not hesitate to ask any questions you might have.

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